

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/30/05

A Bill

HOUSE BILL 2812

5 By: Representatives Flowers, Davis, J. Johnson, Willis
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For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING ASSISTANCE FOR
10 INDIGENT PERSONS; TO ENSURE APPROPRIATE TREATMENT
11 OF PROVIDERS; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO CLARIFY DEFINITIONS FOR
15 PROVIDERS OF INDIGENT ASSISTANCE.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 20, Chapter 46 is amended to add an
21 additional subchapter to read as follows:

20-46-701. Scope.

23 (a) Except when otherwise specified in federal law or regulation or
24 state law, this subchapter shall be the exclusive state authority governing
25 the survey process for psychiatric residential treatment facilities and
26 outpatient mental health services programs.

27 (b) The scope of any survey or audit shall be limited to determining
28 whether a facility is in compliance with applicable federal and state
29 regulations.
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20-46-702. Definitions.

31 (a) As used in this subchapter:

32 (1)(A) "Brief hold" means holding a resident without undue force
33 for twenty (20) minutes or less in order to calm or comfort the resident.
34

35 (B) In no event shall a brief hold be construed as a personal
36 restraint;



1 (2) "Department" means the Department of Human Services;

2 (3) "Director" means the Director of the Department of Human
3 Services or his or her designee;

4
5 (4) "Program provider" means any psychiatric residential treatment
6 facility for children, or outpatient mental health services funded by a
7 medical care program for indigents;

8 (5)(A) "Seclusion" means a behavior control technique involving
9 the involuntary confinement of a resident in locked isolation.

10 (B) In no event shall verbal direction be construed as
11 seclusion;

12 (6) "Serious injury" means any significant impairment of the
13 physical condition of the resident whether self-inflicted or inflicted by
14 someone else as determined by the provider's qualified medical personnel,
15 including, but not limited to:

16 (A) Burns;

17 (B) Lacerations;

18 (C) Bone fractures;

19 (D) Substantial hematoma; and

20 (E) Injuries to internal organs, whether self-inflicted or
21 inflicted by someone else;

22 (7) "Serious occurrence" means a resident's death, serious
23 injury, or suicide attempt;

24 (8) "Suicide attempt" means any action taken by a resident for
25 the purpose of inflicting death or serious injury to the resident as
26 determined by the provider's qualified medical personnel;

27 (9) "Survey" means any process by which compliance with federal
28 law and regulations applicable to a program provider is determined;

29 (10) "Survey team" means an individual or individuals employed
30 by or under contract with the Department of Human Services or its divisions;
31 and

32 (11)(A) "Time-out" means a behavior management technique that
33 involves the separation of a resident from other residents for a period of
34 time to a designated area from which the resident is not physically prevented
35 from leaving.

36 (B) In no event shall a time-out be construed as a seclusion.

1 (C) In no event shall verbal direction be construed as
2 time out.

3 (b) The definitions in this section apply to any survey conducted upon
4 any psychiatric residential treatment facility or outpatient mental health
5 services funded by a medical care program for indigents.

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7 20-46-703. Surveys of program providers.

8 (a) The survey team shall:

9 (1) Conduct an exit conference during every survey;

10 (2) Allow electronic signatures and dates and dictated dates to
11 serve as service delivery documentation;

12 (3) To the extent possible, conduct patient interviews in a
13 manner that does not disrupt patient care or suggest a particular response
14 from the interviewee;

15 (4) Conduct follow-up surveys on an accelerated schedule only
16 upon a finding that a program provider is not in substantial compliance with
17 applicable laws and regulations; and

18 (9)(A) Allow the program provider the option to submit to the
19 surveyor within one (1) working day of an entrance interview a written
20 summary of incident and accident reports instead of the actual reports.

21 (B) The requirements of subdivision (a)(10)(A) of this
22 section shall not prevent the department from accessing all records related
23 to the survey within any time frames established by federal law or
24 regulation.

25 (b) A corrective action response shall be submitted to the survey team
26 within thirty (30) days after the provider receives the report, but the time
27 allowed for submitting the corrective action response shall be extended up to
28 sixty (60) days upon request of the provider.

29 (c) For purposes of compliance with the state Medicaid program,
30 program providers shall be prohibited from reporting serious occurrences to
31 another entity other than the Department of Human Services and, if
32 applicable, to the Centers for Medicare and Medicaid Services.

33 (d) The Director of the Department of Human Services shall ensure that
34 the department complies with the Arkansas Administrative Procedure Act, § 25-
35 15-201 et seq. and § 20-77-107 in regard to all surveys of program providers.

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/s/ Flowers, et al